

# KENTUCKY

GUARANTEED

LENDER

NEWS

Farm

Service

Agency

U.S. DEPARTMENT OF AGRICULTURE

APRIL 2003

## *State Executive Director's Comments*

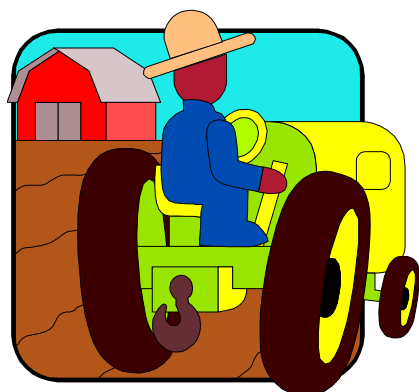


*Jeffery S. Hall*

Spring is here and with it comes the optimism of a new growing season. It is our hope that this will be a good year for our farmers in Kentucky. We stand ready to assist them and you as their lenders in providing the necessary credit to meet their operations' needs.

Lender meeting sites and dates have been set and are noted later in this newsletter. Preferred and Certified lenders are required to attend annual FSA training, but we encourage all lenders to attend. These meetings are not only for the purpose of FSA sharing with you any prepared material that we feel may be helpful to you, but we also welcome questions and feed-back from you as to problems, issues or changes that may need our attention. It is also helpful to "put a face to the name" in meeting with you personally to discuss our program. As always, we appreciate your participation in the FSA guaranteed loan program. We look forward to seeing many of you at the lender meetings!

**"Farm loans are good business -- We guarantee it!"**



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## NOTIFICATION OF LENDER CHANGES

Banking, as many other fields of work, is in a constant state of change. Our bank directory is out-of-date when we get a new one due to bank sales, name changes, moves of loan officers, etc.

Please remember to to notify FSA when your lender name and/or tax ID number changes so that we may adjust the existing guarantees of record to the new identification. We also need to determine whether this has any effect on your lender status with FSA.

## PACE EASEMENTS

We have had several cases recently involving both FSA direct and guaranteed loans where the borrower is wishing to sell his/her property's development rights through the State's PACE program. We have also had at least one request through NRCS' WRP program involving easements for wildlife habitat protection purposes. There are also easements being purchased by the Nature Conservancy.

In all these cases, the entity interested in purchasing the easement obtains an appraisal(s) to assist in making their offer. In the case of PACE, they don't appraise the existing improvements on the property so their appraisal is of no use to us in evaluating the total effect of the easement on the lender or FSA's security standing. This means that once the borrower requests that you concur with the easement on guaranteed loan security, you must have a current and acceptable appraisal to determine whether you may give your concurrence.

Again, in the case of the PACE program, the State requires that lienholders sign a subordination agreement to give their approval to the easement. Since under 2-FLP we have no authority to approve such an agreement, each case must be faxed to the FSA National Office with both the lender's, Farm Loan Manager's and FSA Executive Director's recommendation for approval.

Should you have a case where the easement payment will pay the guaranteed loan(s) in full, there is no problem as no lien will be released or modified until full receipt of the pay-off amount.

There is a possibility under 2-FLP, Paragraph 280 B, that we can accept less than the value of the development rights if we can show a positive equity of 25% after the transaction and all parties agree.

You also have to be aware of an ongoing bankruptcy or other legal action and any possible effect this may have on the approval of the easement and the disbursement of the easement proceeds.

Even in a time of tight budgets, there seems to be quite a bit of funds available for these programs. We are very receptive to working with the borrowers if they are interested in selling these easements, but we must be sure that both the lender's security position and the Government's exposure as to the guarantee is protected in the process.



## LENDER LIQUIDATION PLAN

Once the decision has been made to liquidate an FSA guaranteed loan account, the lender must submit a liquidation plan to the FSA within 30 days. In many cases, this will be with the borrower's cooperation and can be very concise. The plan must be in writing and must include the following:

- \* A current financial statement from all liable parties, a copy of the bankruptcy schedules or the bankruptcy discharge. In a case where the borrower is uncooperative, you should complete a lien search and obtain a credit report, along with any other financial information available.
- \* A proposed method of maximizing collection of the debt, including pursuit of a personal judgment and/or garnishment of wages. We only want to pursue these avenues when there is a real likelihood of additional collections.
- \* A proposal as to the pursuit of legal action concerning the conversion of guaranteed loan security, if this is applicable. Again, if there are no means to retrieve security proceeds from sources other than the borrower and he has no means to make restitution, we may agree to drop the matter. We need specific details of this issue on a case-by-case basis.
- \* Any proposal to release an obligated party of liability must be addressed according to 2-FLP, Paragraph 361. Again, this must have the concurrence of the FSA State Executive Director. This has occasionally come up when the borrower proposes a workout agreement in lieu of foreclosure. This is not possible on loans made after July 20, 2001, as these loans will be subject to U.S. Treasury offset of future federal benefits if there is a loss to the government.

## LENDER LIQUIDATION PLAN (cont'd)

An independent appraisal must be provided on all FSA guaranteed loan security, along with a calculation of the security's net recovery value per 2-FLP, Exhibit 10. The appraisal may be waived if the bankruptcy trustee is handling the liquidation and we are utilizing the court-approved values. We may also waive a chattel appraisal if the lender's normal method of liquidation rarely results in receipt of less than market value for livestock and equipment. Finally, the appraisal is not required if we know the debt is being paid in full and no release is made until there is verification of the final payment.

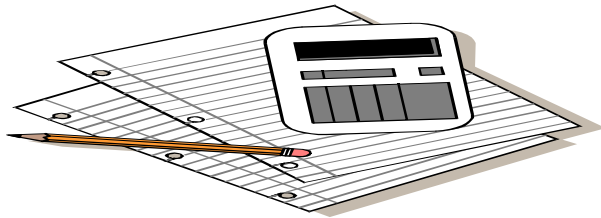
- \* An estimate of the time necessary to complete the liquidation.
- \* An estimated loss claim if the liquidation is expected to exceed 90 days. Some cases won't show losses due to the loan security's value.
- \* An estimate of reasonable liquidation expenses. This does not have to be exact and doesn't limit the actual expenses that will be honored in a possible loss claim.
- \* An estimate of any protective advances that may be necessary to either allow liquidation or protect the lender's interest until completion of liquidation.

These issues, as applicable, need to be addressed in as short a form as possible so that we may either concur or advise of problems with the plan. Our real problem with this matter in the past is not in disagreeing with the lender's method of liquidation, but rather in the lack of written documentation. As in many other matters, you should note that Preferred Lenders will abide by their approved Credit Management System when it is in conflict with 2-FLP.

## LENDER SERVICING VISITS

During recent lender file reviews we have noticed several cases where required lender servicing visits were not documented in the lender's loan files. In many of these cases we truly believe a visit was made, but just not documented in the file. We have suggested in these cases that the lender develop a simple, standard format to document the visits and their findings, along with a specific place they are to be found in their loan files.

Should there ever be a loss claim in a particular case, proper documentation of visits and other required servicing may make the difference as to the amount and timeliness of the loss claim payment.



## LENDER MEETINGS

We hold our annual lender meetings in April and May per the following schedule:

April 28 - Russell Springs  
Lake Cumberland Area Development District, Hwy. 80

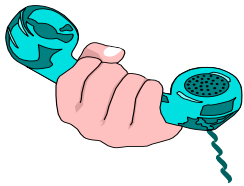
April 29 - Gilbertsville  
Kentucky Dam Village State Park. We will meet in the meeting room off the lobby of the main lodge.

April 30 - Bowling Green  
Warren County Extension Office, 3132 Nashville Rd

May 1 - Winchester  
Clark County Extension Office, 1400 Fortune Drive. Take exit 96 off I-64, go North on 627. You will turn left onto Fortune Drive within sight of the exit.

Guaranteed processing and servicing issues will be discussed at the meetings. Preferred and Certified Lenders are required to attend, and all agricultural lenders are encouraged to participate in the meetings. The meetings will run from 9:30 a.m. to 12:00 p.m., local time. Prior to the meetings, a reminder will be sent to all lenders who participate in our program.

## How to Reach Us



Please feel free to call us whenever you have questions or comments about our guaranteed loan program.

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Additional information on FSA programs is available on line at:  
<http://www.fsa.usda.gov/ky>

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